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THE

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A REPORT OF INTERIM ACTIVITY . . . MONTANA LEGISLATIVE COUNCIL . . . HELENA

MAY 1986

VOL. V. NO. 12

JOINT INTERIM SUBCOMMITTEE ON INFRASTRUCTURE

BONDING AND
INSURANCE PLANS
PRESENTED

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MAY 6 - 1986

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At its meeting of April 18, the Interim Subcommittee on Infrastructure heard a presentation by David Ewer of the Montana Economic Development Board, describing the Board's Intermediate Term Capital Program (INTERCAP). The purpose of this program is to finance installment sales contracts or other obligations of local governments, including school districts. The Board will issue bonds and use the proceeds to buy local government obligations. Pooling the bonding capacity of the participating governments will make it possible for each one to purchase equipment or services it could not finance on its own. Debt and mill levy limits still apply, however. The program will be in place by July 1.

Alec Hansen of the Montana League of Cities and Towns described the League's insurance programs. Currently the League provides Workers' Compensation Insurance for 70 cities and towns. Under SB 2 (special session), cities now can self-insure for liability. A \$15-million bond issue will provide funds for claims and debt service. Premiums paid by cities and towns will go into a reserve fund. The League is hiring a financial consultant to oversee the program. Although participating cities and towns will be able to obtain \$.5 million of coverage at a low rate, the success of the program depends on limiting liability. A petition will be circulated after May 1, to amend the state constitution in such a way as to allow the Legislature to limit the liability of government entities by a two-thirds vote of each house.

The Subcommittee also received a final report on its survey of counties and municipalities. Staff will prepare a revised report to include Yellowstone County's late questionnaire; the revision will be available about May 5.

NEXT MEETING
JUNE 16

The Subcommittee will hold its next meeting at 8 a.m. on the first day of the June special session (Monday, June 16).

JOINT INTERIM SUBCOMMITTEE ON AGRICULTURAL
PROBLEMS

MAY 9, 10
KALISPELL

The Joint Interim Subcommittee on Agricultural Problems will meet May 9 - 10 in Kalispell.

GAME DAMAGE

The meeting on May 9 will include a report on game damage laws enacted in other states and public testimony on the problems of wildlife damage in northwestern Montana. In addition, the Subcommittee will tour wildlife damage sites and damage prevention sites in the Kalispell area with local Montana Department of Fish, Wildlife, and Parks personnel.

AG LEGISLATION

The May 10 meeting will be dedicated to discussion of draft legislation proposed as part of the study on the economic problems of agriculture. This legislation includes proposals to: (1) limit the amount of net farm losses that may be allowed as a deduction against nonfarm income in computing adjusted gross income for Montana individual income tax purposes, and (2) establish a system for the transportation, handling, and marketing of a 100% Montana limited blended grain.

At the May 10 meeting, the Subcommittee will also hear reports on (1) implementation of HB 11, enacted during the March special session, which provides for a state agricultural assistance and counseling program, and (2) operation of the Montana Agricultural Loan Authority.

JOINT INTERIM SUBCOMMITTEE ON LIEN LAWS

JUNE 15 MEETING
SCHEDULED

The next meeting of the Joint Interim Subcommittee on Lien Laws is scheduled for 1:30 p.m. Sunday, June 15, in the Governor's Reception Room. At that meeting, final recommendations will be adopted on exemptions from execution and

on lien law matters not completed on April 25. Subcommittee recommendations on the mechanics' lien laws include:

MECHANICS' LIEN
RECOMMENDATIONS

- (1) Recognize equal priority for all lien claimants.
- (2) Clarify provision that assures mechanics' lien attaches to property improved to the extent of the value of the improvement and has priority over mortgages.
- (3) Clarify statutory language providing that a lien on leased property can attach to the extent of the lessee's interest but to the owner's interest only if he agreed to the improvement.
- (4) Clarify that the street address or other nomenclature recognizable by a reasonable person is sufficient identification of property in a notice of right to lien.
- (5) Provide exemption from notice to lien requirement for small business, commercial and larger residential projects.
- (6) Require that notice of right to lien be filed in the office of the county clerk and recorder.
- (7) Recognize that the date of commencement of a project is the time of the first visible change in the property unless an earlier notice of commencement was filed with the clerk and recorder or with the lender providing the financing.

The Subcommittee approved a proposal to require that in order to perfect a lien on an agricultural implement, the security agreement must identify the item by model number and serial number, if such numbers have been assigned to the item.

The Subcommittee agreed by a majority vote to approve the centralized notification filing option under the clear title provision of the federal Food Security Act of 1985 for buyers of agricultural products and to recognize the Secretary of State as the operator of the central notification filing system.

The Subcommittee instructed its staff to work with the Secretary of State's staff to draft a letter for signatures of members of the Subcommittee requesting the Secretary of Agriculture to relax overly restrictive federal regulations on central notification and filing.

JOINT INTERIM SUBCOMMITTEE ON LIABILITY ISSUES

NEWLY CONSTITUTED COMMITTEE

In response to SJR 1 of the March special session, members appointed to serve on the Joint Interim Subcommittee on Liability Issues are:

Senators Bob Brown, R-Whitefish; Mike Halligan, D-Missoula; B.F. (Chris) Christiaens, D-Great Falls; and Gene Thayer, R-Great Falls; and Representatives Kelly Addy, D-Billings; Joan Miles, D-Helena; Fred Thomas, R-Stevensville; and Bob Gilbert, R-Sidney.

Legislative Council staff members assigned to the liability issues study are Valencia Lane, attorney, coordinator, and head of staff; and Lois Menzies and Paul Verdon, researchers.

SJR 1 charters the Subcommittee to study and prepare legislation on:

- (1) insurance problems, including how to make insurance coverage and protection available to Montana citizens at a reasonable cost;
- (2) the effectiveness of various tort reform and constitutional amendment proposals; and
- (3) general questions involving public and private liability, including but not limited to the issues of the collateral source rule, simultaneous pursuit of a bad faith claim with the underlying claim, structured settlements, statutes of limitations, joint and several liability, caps on damage awards, contingent fee arrangements, attorney fees for defense counsel, reinsurance, a state reinsurance fund, insurance marketing assistance, wrongful discharge, punitive damages, and sanctions for filing frivolous lawsuits.

FIRST MEETING
DATE YET TO
BE SET

As the senior senator, the convening officer is Senator Brown, and he has indicated his desire to hold the first meeting on the day after the June special session adjourns, but the date will be announced after a consensus of members is determined.

LEGISLATIVE COUNCIL

REMINDER ON
LEGISLATIVE
VIDEO TAPE

Making A Difference, the 17-minute video cassette on the legislative process, has received high ratings from its many users. The Legislative Council has sold 25 copies of the video, primarily to public schools, and is doing a brisk rental business with its in-house copies of the video. Legislators who have used the video as part of informative talks to various groups have said they get many thoughtful questions from their audiences because of the interesting way the video demonstrates how an idea becomes a law. The video is available from the Council for \$6.50 a week to cover handling. Most public schools will also lend the video. If you are interested, call the Council for information on which public schools own a copy.

MAY 16 MEETING

The Council plans to meet May 16. Among items to be discussed will be the possibility of agency budget reductions and their effects.

ENVIRONMENTAL QUALITY COUNCIL

MAY 12, 13
MEETINGS SET

The Environmental Quality Council and its subcommittees will meet on May 12 and 13 in Helena. On May 12, the EQC Land Resources Subcommittee and the Department of Natural Resources and Conservation are co-sponsoring a day-long public meeting to assess the status of renewable energy and conservation technologies in Montana, and to discuss public and private roles in supporting these technologies. The meeting will begin at 8:30 a.m. in the Director's Conference Room of the Lee Metcalf (DNRC) Building.

The EQC Water Resources Subcommittee will meet at 1:30 p.m. on May 12 in Room 108 of the Capitol. The Subcommittee will continue its study of water quality management in Montana with presentations on the public water supply and construction grants programs of the state Water Quality Bureau. The Subcommittee will also consider pending federal water quality legislation.

The full EQC meeting will convene at 8:30 a.m. on May 13 in Room 108 of the Capitol. Major agenda topics for the morning session include implementation of the community provisions of the hazardous chemical right-to-know law, an update on the EQC oil and gas study, and a report on the Montana Environmental Policy Act seminar that was held on April 23. The afternoon session of the meeting will be devoted to EQC's ongoing study of subdivision regulation. Working groups will discuss the purposes of subdivision regulation, types of local subdivision review, the appropriate role of state review, and the kinds of land divisions that should be subject to subdivision regulation.

LEGISLATIVE FINANCE COMMITTEE

SCHOOL FOUNDATION SUBCOMMITTEE

The school funding subcommittee met to have a detailed briefing on funding and expenditures of the school foundation program and review the Board of Public Education's accreditation standards.

The subcommittee decided to apply for a \$24,340 NCSL grant to increase the resources available for identifying and separating the costs of a basic education from other education expenditures, developing policy options that would clearly link state funding mechanisms to the cost of a basic education, and assessing the existing tax efforts.

NEXT MEETING MAY 14

The next meeting is Wednesday, May 14. Business for this meeting is to:

- (1) Examine what schools are accredited without a voted levy.
- (2) Compare their curriculum to the accreditation standards.
- (3) Develop a cost model for an elementary school district which will meet the accreditation standards.
- (4) Continue the review of other states' approach to defining basic education.

REVENUE OVERSIGHT COMMITTEE

MAY 9
MEETING SET

The Revenue Oversight Committee's eighth meeting of the interim will be held Friday, May 9 in Helena. The meeting will be in Room 104 of the Capitol and is scheduled to begin at 10 a.m.

The agenda shows: a discussion of the SJR 14 study, property tax delinquencies, tax sales, and tax deeds; a briefing on the progress of the Moss Mansion In-kind Review Committee; an update on the latest revenue projections from the Governor's budget office; and a discussion by the Committee on the meeting schedule for the remainder of the interim.

The Department of Revenue will present its usual report which will include a discussion of relevant litigation and rules issues. The Department also will ask the Committee to consider the individual income tax as it relates to armed services personnel.

LIQUOR
RECOVERY PLAN

ROC Chairman Mel Williams has appointed a Subcommittee to work with the Department in developing a "liquor division recovery plan" as required by HB 14 of the March special session. The Subcommittee held its first meeting on April 28 and examined three options proposing various changes in the state's involvement in liquor control and sales.

The first option is to close several stores, revise commissions to the state's "agency" stores, and adjust the hours of business in state-run stores. This was the option proposed by the Department prior the March special session.

Option two would be a change from state-run stores to all agency stores, where the stores would be run by private parties and the inventory owned by the state. This type of system is currently in place in Oregon.

The third option calls for the state to abandon its historic role in retail sales and assume a role solely as a wholesaler. The state of Wyoming has this type of a system.

Two additional options were proposed by Subcommittee members. One calls for a warehouse/agency arrangement. The other calls for a

complete withdrawal from wholesaling and retailing and focusing on licensing and taxation, much the same as Colorado's system.

The Subcommittee has scheduled a second meeting for Thursday afternoon, May 8, in Room 104 of the Capitol. The meeting will begin at 2 p.m.

The Subcommittee is chaired by Senator Joe Mazurek. Other members are Senator Bruce Crippen and Representatives Mel Williams and John Harp.

A working group requested by the Revenue Oversight Committee to examine the issues of property tax delinquencies, tax sales, and tax deeds met in Helena on April 22. This work is part of the study requested under SJR 14. The working group is in the process of examining tax delinquencies and collections procedures in Idaho, Washington, Oregon, Arizona, and Ohio. The goal of the group is to recommend to the ROC changes in Montana's procedures in dealing with property tax delinquencies and collections.

The working group is comprised of Sue Bartlett, Lewis and Clark County Clerk and Recorder; Susan Spurgeon, Fergus County Treasurer; Dick Michelotti, Cascade County Treasurer; Jim Dopp, Missoula County Records Manager; Gordon Morris, Executive Director of MACO; Alec Hansen, Director of the Montana League of Cities and Towns; and Sandra Whitney, representing the Montana Taxpayers Association.

COMMITTEE ON INDIAN AFFAIRS

APRIL 25
MEETING HELD

The Committee on Indian Affairs met in Helena on April 25. The topic of this meeting was the Indian Child Welfare Act. The Committee heard testimony from representatives of state and tribal social service agencies, the Bureau of Indian Affairs, and tribal and state courts who described their responsibilities under the Act, discussed problems encountered in implementing the Act, and suggested solutions for addressing these problems.

The Committee's next meeting is scheduled for Billings on Friday, August 15.

WATER POLICY COMMITTEE

APRIL 18 - 19
MEETING HELD

The Water Policy Committee met on April 18-19 to discuss water development, the state water plan, the activities of the Reserved Water Rights Compact Commission, and the volume measurement as required in the water rights adjudication process. A new state water plan process and format was proposed for Committee consideration by the Department of Natural Resources and Conservation.

The Committee will focus on interstate water issues and the water reservation system at its next meeting. The meeting will be held in conjunction with a conference on interstate water issues that is sponsored by the National Conference of State Legislatures. The NCSL conference is designed to enhance understanding and communication among state legislators representing the ten Missouri River Basin states on water issues of concern to all of the basin states. A mid-July date is anticipated for the meeting. Exact details of the date and location of the meeting will be announced in June.

RECENT AGENCY PUBLICATIONS

INTRODUCTION
TO NEW
FEATURE

"Recent Agency Publications" is to be a regular feature in the Interim from now on. Each month your staff agencies produce reports on a variety of subjects in response to requests from committees and individual legislators. Many of these reports may be of interest to a number of legislators, but until now there has been no centrally available listing for you to use. We hope this feature helps improve the effectiveness of legislative staff services. Please contact the publishing agency for copies. And let us know what you think of this new service.

EQC

Update of Montana Department of Fish, Wildlife and Parks v. Water Court and Related Actions

A Report Concerning the History of the Volume Requirement in the Final Decree Statute

Statutory Funding Sources for Water Development
in Montana

A Comparison of State Water Plans Used by the
Missouri Basin States and Idaho

A Summary of Findings Concerning State
Subdivision Laws

Legislative Auditor's Office

Financial-Compliance Audits:

- Department of Livestock
- Board of Pardons, Department of Institutions
- Montana State Prison, Department of
Institutions
- Examination of Major Disaster Claims Submitted
to the Federal Emergency Management Agency by
the Montana Developmental Center, Department
of Institutions (1981 flood)

Legislative Council

Procedures - Constitutional Amendment by
Legislative Referendum

Residency Requirements for Town Judge

Wildlife Damage Laws and Policies of Western
States and Canadian Provinces

Use of Accrued Sick Leave for Retiree Premium
Payments

The Procedure for In-Kind Payment of Inheritance
and Gift Taxes

Preventing the Closure of Liquor Stores: House
Bill No. 14, 49th Legislature - Second Special
Session

Summary of the State's Involvement in Liquor in
Wyoming and Colorado

LEGISLATIVE INTERIM CALENDAR

MAY

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
				1	2 MO-TECH/JOB TRAINING-Rm.108 COAL TAX OVER- SIGHT-Rm.104	3
4	5	6	7	8 REV. OVERSIGHT COMM.-Liquor Subcomm.-Rm.104 2pm	9 REV. OVERSIGHT Rm. 104 - 10am ---SUBCOMM. ON AG Kalispell	10
11	12 -----EQC Rm. 108 ---LEG. AUDIT Rm. 104	13 ----- Rm. 108 COMMITTEE ---	14 SCHOOL FUNDING SUBCOMM.-Rm.104	15	16 LEG. COUNCIL Rm. 132	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

*ALL MEETINGS ARE SUBJECT TO CHANGE

LEGISLATIVE INTERIM CALENDAR

JUNE

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
LIEN LAW COMM. 1:30PM	***** INFRASTRUCTURE COMM. - 8am	***** SPECIAL SESSION	*****	*****	*****	*****
22	23	24	25	26	27	28
*****						*****
29	30					

*ALL MEETINGS ARE SUBJECT TO CHANGE

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